

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 HAWTHORNE STREET  
SAN FRANCISCO, CALIFORNIA 94105

IN RE: )  
 ) DOCKET NO. EPCRA-09-2011-0004  
 )  
BARRICK CORTEZ, INC.; )  
 ) SECOND AMENDED COMPLAINT  
 ) AND NOTICE OF OPPORTUNITY  
BARRICK GOLD U.S., INC.; ) FOR HEARING  
 )  
HOMESTAKE MINING COMPANY )  
OF CALIFORNIA; )  
 )  
RESPONDENTS )  
\_\_\_\_\_ )

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AUTHORITY AND PARTIES

1. This is a civil administrative action brought pursuant to Section 325(c) of the Emergency Planning and Community Right-To-Know Act ("EPCRA"), 42 U.S.C. § 11045(c), for assessment of a civil administrative penalty against Barrick Cortez, Inc. ("BCI"); Barrick Gold U.S., Inc. ("BGI"); and Homestake Mining Company of California ("Homestake"). Complainant is the Director of the Communities and Ecosystems Division, EPA, Region IX, who has been duly delegated the authority to bring this action.
2. Respondents are BCI, BGI, and Homestake ("Respondents").
3. Second Amended Complaint will allege that Respondent BCI violated Section 313 of EPCRA by failing to timely report its manufacturing of antimony compounds for calendar years 2005 through 2007, arsenic compounds for calendar years 2005 and 2006, barium compounds for calendar years 2005 through 2007, cadmium compounds for calendar years

2005 and 2007, chromium compounds for calendar year 2007, cobalt compounds for calendar years 2005 through 2007, nitrate compounds for calendar year 2007, thallium compounds for calendar year 2005, and vanadium compounds for calendar year 2007.

4. Second Amended Complaint will allege that Respondent BCI violated Section 313 of EPCRA by failing to accurately report its manufacturing of arsenic compounds for calendar year 2007; manufacturing of chromium compounds for calendar years 2005 and 2006; manufacturing of copper compounds for calendar years 2005 through 2007; otherwise use of cyanide compounds for calendar years 2005 through 2007; processing of lead compounds for calendar year 2007; manufacturing of mercury compounds for calendar year 2007; manufacturing of nickel compounds for calendar years 2005 through 2007; and manufacturing of nitrate compounds for calendar years 2005 and 2006.
5. Second Amended Complaint will allege that Respondent BGI violated Section 313 of EPCRA by failing to timely report its otherwise use of methanol for calendar year 2008.
6. Second Amended Complaint will allege that Respondent BGI violated Section 313 of EPCRA by failing to accurately report its manufacturing of copper compounds for calendar year 2008; manufacturing of hydrogen cyanide for calendar year 2007; manufacturing of mercury compounds for calendar years 2007 and 2008; manufacturing of nitrate compounds for calendar years 2007 and 2008; otherwise use of cyanide compounds for calendar years 2007 and 2008; and otherwise use of lead compounds for calendar year 2008.
7. Second Amended Complaint will allege that Respondent Homestake violated Section 313 of EPCRA by failing to timely report its processing of antimony compounds for calendar year 2007; arsenic compounds for calendar years 2007 and 2008; barium compounds for calendar years 2007 and 2008; chromium compounds for calendar year 2007; copper

compounds for calendar year 2007; lead compounds for calendar year 2008; and zinc compounds for calendar year 2007 and 2008.

8. Second Amended Complaint will allege that Respondent Homestake violated Section 313 of EPCRA by failing to accurately report its manufacturing of nitrate compounds for calendar year 2008; otherwise use of cyanide compounds for calendar years 2007 and 2008; and processing of mercury compounds for calendar years 2007 and 2008.

#### STATUTORY AND REGULATORY BACKGROUND

9. Pursuant to Sections 313 and 328 of EPCRA, 42 U.S.C. §§ 11023 and 11048, EPA promulgated regulations on February 16, 1988 (53 Fed. Reg. 4525), setting forth requirements for the submission of information relating to the release of toxic chemicals under Section 313. These regulations, as amended, are presently codified at 40 C.F.R. Part 372.
10. Section 313(a) and (b) of EPCRA, 42 U.S.C. § 11023(a) and (b), and 40 C.F.R. §§ 372.22 and 372.30, provide that the owner or operator of a facility that (i) has ten or more full-time employees; (ii) is in Standard Industrial Classification Codes 10 (except 1011, 1081, and 1094); 12 (except 1241); 20 through 39; 4911, 4931, and 4939 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce); 4953 (limited to facilities regulated under the Resource Conservation and Recovery Act); 5169; 5171; and 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis); and (iii) manufactured, processed, or otherwise used one or more toxic chemicals listed under Section 313(f) of EPCRA and 40 C.F.R. §§ 372.28 and 372.65 in excess of applicable threshold quantities set forth in 40 C.F.R. § 372.25, § 372.27, or § 372.28, must submit to EPA and the State in which the facility is located a chemical release

form published under Section 313(g) of EPCRA for each such toxic chemical.

11. Pursuant to Section 313(g) of EPCRA, 42 U.S.C. § 11023(g), EPA published a uniform Toxic Chemical Release Inventory Form (hereinafter referred to as a “Form R”) for facilities that are subject to the reporting requirements of Section 313. Section 313(a) and (b) of EPCRA, 42 U.S.C. § 11023(a) and (b), and 40 C.F.R. § 372.30(d), provide that a complete and accurate Form R for activities involving a toxic chemical that occurred during a calendar year must be submitted on or before July 1 of the next year.

#### GENERAL ALLEGATIONS

12. Respondent BCI is a Delaware corporation and a “person” as that term is defined in Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).
13. At all times relevant to this matter, Respondent BCI operated, and continues to operate, a “facility,” as that term is defined in Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), located near Crescent Valley, Nevada (hereinafter referred to as the “BCI Facility”).
14. At all times relevant to this matter, the BCI Facility had 10 or more “full-time employees,” as that term is defined at 40 C.F.R. § 372.3.
15. At all times relevant to this matter, the BCI Facility was in Standard Industrial Classification Codes 1049.
16. Respondent BGI is a California corporation doing business as Bald Mountain Mine and a “person” as that term is defined in Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).
17. At all times relevant to this matter, Respondent BGI operated, and continues to operate, a “facility,” as that term is defined in Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), located 70 miles southeast of Elko, Nevada (hereinafter referred to as the “BGI Facility”).
18. At all times relevant to this matter, the BGI Facility had 10 or more “full-time employees,”

as that term is defined at 40 C.F.R. § 372.3.

19. At all times relevant to this matter, the BGI Facility was in Standard Industrial Classification Code 1049.
20. Respondent Homestake is a California corporation doing business as Ruby Hill Mine and a “person” as that term is defined in Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).
21. At all times relevant to this matter, Respondent Homestake operated, and continues to operate, a “facility,” as that term is defined in Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), located near the intersection of Highway 50 and State Route 278 near Eureka, Nevada (hereinafter referred to as the “Homestake Facility”).
22. At all times relevant to this matter, the Homestake Facility had 10 or more “full-time employees,” as that term is defined at 40 C.F.R. § 372.3.
23. At all times relevant to this matter, the Homestake Facility was in Standard Industrial Classification Code 1049.

## VIOLATIONS

### **I. BCI Violations**

#### **COUNT 1: Failure to Submit Timely Form R for Antimony Compounds for 2005**

24. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
25. During the calendar year 2005, Respondent BCI “manufactured” over 25,000 pounds of antimony compounds (N010), as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
26. Antimony compound (N010) is a toxic chemical listed under 40 C.F.R. § 372.65.
27. The threshold for reporting antimony compounds “manufactured” at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and

40 C.F.R. § 372.25.

28. Respondent BCI was required to submit a complete and accurate Form R for antimony compounds to EPA and the State of Nevada for calendar year 2005 on or before July 3, 2006.
29. Respondent BCI failed to submit a Form R for antimony compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006.
30. Respondent BCI's failure to submit a Form R for antimony compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 2: Failure to Submit Timely Form R for Arsenic Compounds for 2005

31. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
32. During the calendar year 2005, Respondent BCI "manufactured" over 25,000 pounds of arsenic compounds (N020), as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
33. Arsenic compound (N020) is a toxic chemical listed under 40 C.F.R. § 372.65.
34. The threshold for reporting arsenic compounds "manufactured" at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
35. Respondent BCI was required to submit a complete and accurate Form R for arsenic compounds to EPA and the State of Nevada for calendar year 2005 on or before July 3, 2006.
36. Respondent BCI failed to submit a Form R for arsenic compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006.
37. Respondent BCI's failure to submit a Form R for arsenic compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 3: Failure to Submit Timely Form R for Barium Compounds for 2005

38. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
39. During the calendar year 2005, Respondent BCI “manufactured” over 25,000 pounds of barium compounds (N040), as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
40. Barium compound (N040) is a toxic chemical listed under 40 C.F.R. § 372.65.
41. The threshold for reporting barium compounds “manufactured” at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
42. Respondent BCI was required to submit a complete and accurate Form R for barium compounds to EPA and the State of Nevada for calendar year 2005 on or before July 3, 2006.
43. Respondent BCI failed to submit a Form R for barium compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006.
44. Respondent BCI’s failure to submit a Form R for barium compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 4: Failure to Submit Timely Form R for Cadmium Compounds for 2005

45. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
46. During the calendar year 2005, Respondent BCI “manufactured” over 25,000 pounds of cadmium compounds (N078), as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
47. Cadmium compound (N078) is a toxic chemical listed under 40 C.F.R. § 372.65.
48. The threshold for reporting cadmium compounds “manufactured” at the BCI Facility is

25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.

49. Respondent BCI was required to submit a complete and accurate Form R for cadmium compounds to EPA and the State of Nevada for calendar year 2005 on or before July 3, 2006.
50. Respondent BCI failed to submit a Form R for cadmium compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006.
51. Respondent BCI's failure to submit a Form R for cadmium compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 5: Failure to Submit Timely, Complete and Accurate Form R for Chromium Compounds for 2005

52. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
53. During the calendar year 2005, Respondent BCI "manufactured" over 25,000 pounds of chromium compounds (N090), as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
54. Chromium compound (N090) is a toxic chemical listed under 40 C.F.R. § 372.65.
55. The threshold for reporting chromium compounds "manufactured" at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
56. Respondent BCI was required to submit a complete and accurate Form R for chromium compounds to EPA and the State of Nevada for calendar year 2005 on or before July 3, 2006.
57. Respondent BCI failed to submit a complete and accurate Form R for chromium compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006.



58. Respondent BCI's failure to submit a complete and accurate Form R for chromium compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 6: Failure to Submit Timely Form R for Cobalt Compounds for 2005

59. Paragraphs 1 through 23 are realleged and incorporated by reference herein.

60. During the calendar year 2005, Respondent BCI "manufactured" over 25,000 pounds of cobalt compounds (N096), as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.

61. Cobalt compound (N096) is a toxic chemical listed under 40 C.F.R. § 372.65.

62. The threshold for reporting cobalt compounds "manufactured" at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.

63. Respondent BCI was required to submit a complete and accurate Form R for cobalt compounds to EPA and the State of Nevada for calendar year 2005 on or before July 3, 2006.

64. Respondent BCI failed to submit a Form R for cobalt compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006.

65. Respondent BCI's failure to submit a Form R for cobalt compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 7: Failure to Submit Timely, Complete and Accurate Form R for Copper Compounds for 2005

66. Paragraphs 1 through 23 are realleged and incorporated by reference herein.

67. During the calendar year 2005, Respondent BCI "manufactured" over 25,000 pounds of copper compounds (N100), as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.

- 68. Copper compound (N100) is a toxic chemical listed under 40 C.F.R. § 372.65.
- 69. The threshold for reporting copper compounds “manufactured” at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
- 70. Respondent BCI was required to submit a complete and accurate Form R for copper compounds to EPA and the State of Nevada for calendar year 2005 on or before July 3, 2006.
- 71. Respondent BCI failed to submit a complete and accurate Form R for copper compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006.
- 72. Respondent BCI’s failure to submit a complete and accurate Form R for copper compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 8: Failure to Submit Timely, Complete and Accurate Form R for Cyanide Compounds for 2005

- 73. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
- 74. During the calendar year 2005, Respondent BCI “otherwise used” over 10,000 pounds of cyanide compounds (N106), as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
- 75. Cyanide compound (N106) is a toxic chemical listed under 40 C.F.R. § 376.65.
- 76. The threshold for reporting cyanide compounds “otherwise used” at the BCI Facility is 10,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
- 77. Respondent BCI was required to submit a complete and accurate Form R for cyanide compounds to EPA and the State of Nevada for calendar year 2005 on or before July 3, 2006.
- 78. Respondent BCI failed to submit a complete and accurate Form R for cyanide compounds

for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006.

79. Respondent BCI's failure to submit a complete and accurate Form R for cyanide compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 9: Failure to Submit Timely, Complete and Accurate Form R for Nickel Compounds for 2005

80. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
81. During the calendar year 2005, Respondent BCI "manufactured" over 25,000 pounds of nickel compounds (N495), as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
82. Nickel compound (N495) is a toxic chemical listed under 40 C.F.R. § 372.65.
83. The threshold for reporting nickel compounds "manufactured" at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.
84. Respondent BCI was required to submit a complete and accurate Form R for nickel compounds to EPA and the State of Nevada for calendar year 2005 on or before July 3, 2006.
85. Respondent BCI failed to submit a complete and accurate Form R for nickel compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006.
86. Respondent BCI's failure to submit a complete and accurate Form R for nickel compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 10: Failure to Submit Timely, Complete and Accurate Form R for Nitrate Compounds for 2005

87. Paragraphs 1 through 23 are realleged and incorporated by reference herein.

88. During the calendar year 2005, Respondent BCI “manufactured” over 25,000 pounds of nitrate compounds (N511), as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
89. Nitrate compound (N511) is a toxic chemical listed under 40 C.F.R. § 372.65.
90. The threshold for reporting nitrate compounds “manufactured” at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
91. Respondent BCI was required to submit a complete and accurate Form R for nitrate compounds to EPA and the State of Nevada for calendar year 2005 on or before July 3, 2006.
92. Respondent BCI failed to submit a complete and accurate Form R for nitrate compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006.
93. Respondent BCI’s failure to submit a complete and accurate Form R for nitrate compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 11: Failure to Submit Timely Form Rs for Thallium Compounds for 2005

94. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
95. During the calendar year 2005, Respondent BCI “manufactured” over 25,000 pounds of thallium compounds (N760), as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
96. Thallium compound (N760) is a toxic chemical listed under 40 C.F.R. § 372.65.
97. The threshold for reporting thallium compounds “manufactured” at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
98. Respondent BCI was required to submit a complete and accurate Form R for thallium

compounds to EPA and the State of Nevada for calendar year 2005 on or before July 3, 2006.

99. Respondent BCI failed to submit a Form R for thallium compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006.

100. Respondent BCI's failure to submit a Form R for thallium compounds for calendar year 2005 to EPA and the State of Nevada on or before July 3, 2006 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 12: Failure to Submit Timely Form R for Antimony Compounds for 2006

101. Paragraphs 1 through 23 are realleged and incorporated by reference herein.

102. During the calendar year 2006, Respondent BCI "manufactured" over 25,000 pounds of antimony compounds, as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.

103. Antimony compound is a toxic chemical listed under 40 C.F.R. § 372.65.

104. The threshold for reporting antimony compounds "manufactured" at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.

105. Respondent BCI was required to submit a complete and accurate Form R for antimony compounds to EPA and the State of Nevada for calendar year 2006 on or before July 2, 2007.

106. Respondent BCI failed to submit a Form R for antimony compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007.

107. Respondent BCI's failure to submit a Form R for antimony compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 13: Failure to Submit Timely Form R for Arsenic Compounds for 2006

108. Paragraphs 1 through 23 are realleged and incorporated by reference herein.

109. During the calendar year 2006, Respondent BCI “manufactured” over 25,000 pounds of arsenic compounds (N020), as that term is defined in 40 C.F.R. § 372.3, at the Facility.
110. Arsenic compound (N020) is a toxic chemical listed under 40 C.F.R. § 372.65.
111. The threshold for reporting arsenic compounds “manufactured” at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
112. Respondent BCI was required to submit a complete and accurate Form R for arsenic compounds to EPA and the State of Nevada for calendar year 2006 on or before July 2, 2007.
113. Respondent BCI failed to submit a Form R for arsenic compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007.
114. Respondent BCI’s failure to submit a Form R for arsenic compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 14: Failure to Submit Timely Form R for Barium Compounds for 2006

115. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
116. During the calendar year 2006, Respondent BCI “manufactured” over 25,000 pounds of barium compounds, as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
117. Barium compound is a toxic chemical listed under 40 C.F.R. § 372.65.
118. The threshold for reporting barium compounds “manufactured” at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
119. Respondent BCI was required to submit a complete and accurate Form R for barium compounds to EPA and the State of Nevada for calendar year 2006 on or before July 2, 2007.

120. Respondent BCI failed to submit a Form R for barium compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007.
121. Respondent BCI's failure to submit a Form R for barium compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 15: Failure to Submit Timely, Complete and Accurate Form R for Chromium Compounds for 2006

122. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
123. During the calendar year 2006, Respondent BCI "manufactured" over 25,000 pounds of chromium compounds, as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
124. Chromium compound is a toxic chemical listed under 40 C.F.R. § 372.65.
125. The threshold for reporting chromium compounds "manufactured" at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
126. Respondent BCI was required to submit a complete and accurate Form R for chromium compounds to EPA and the State of Nevada for calendar year 2006 on or before July 2, 2007.
127. Respondent BCI failed to submit a complete and accurate Form R for chromium compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007.
128. Respondent BCI's failure to submit a complete and accurate Form R for chromium compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 16: Failure to Submit Timely Form R for Cobalt Compounds for 2006

129. Paragraphs 1 through 23 are realleged and incorporated by reference herein.

130. During the calendar year 2006, Respondent BCI “manufactured” over 25,000 pounds of cobalt compounds, as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
131. Cobalt compound is a toxic chemical listed under 40 C.F.R. § 372.65.
132. The threshold for reporting cobalt compounds “manufactured” at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
133. Respondent BCI was required to submit a complete and accurate Form R for cobalt compounds to EPA and the State of Nevada for calendar year 2006 on or before July 2, 2007.
134. Respondent BCI failed to submit a Form R for cobalt compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007.
135. Respondent BCI’s failure to submit a Form R for cobalt compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 17: Failure to Submit Timely, Complete and Accurate Form R for Copper Compounds for 2006

136. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
137. During the calendar year 2006, Respondent BCI “manufactured” over 25,000 pounds of copper compounds, as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
138. Copper compound is a toxic chemical listed under 40 C.F.R. § 372.65.
139. The threshold for reporting copper compounds “manufactured” at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
140. Respondent BCI was required to submit a complete and accurate Form R for copper



compounds to EPA and the State of Nevada for calendar year 2006 on or before July 2, 2007.

141. Respondent BCI failed to submit a complete and accurate Form R for copper compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007.
142. Respondent BCI's failure to submit a complete and accurate Form R for copper compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 18: Failure to Submit Timely, Complete and Accurate Form R for Cyanide Compounds for 2006

143. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
144. During the calendar year 2006, Respondent BCI "otherwise used" over 10,000 pounds of cyanide compounds, as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
145. Cyanide compound is a toxic chemical listed under 40 C.F.R. § 376.65.
146. The threshold for reporting cyanide compounds "otherwise used" at the BCI Facility is 10,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
147. Respondent BCI was required to submit a complete and accurate Form R for cyanide compounds to EPA and the State of Nevada for calendar year 2006 on or before July 2, 2007.
148. Respondent BCI failed to submit a complete and accurate Form R for cyanide compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007.
149. Respondent BCI's failure to submit a complete and accurate Form R for cyanide compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 19: Failure to Submit Timely, Complete and Accurate Form R for Nickel Compounds for 2006

- 150. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
- 151. During the calendar year 2006, Respondent BCI “manufactured” over 25,000 pounds of nickel compounds, as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
- 152. Nickel compound is a toxic chemical listed under 40 C.F.R. § 372.65.
- 153. The threshold for reporting nickel compounds “manufactured” at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.
- 154. Respondent BCI was required to submit a complete and accurate Form R for nickel compounds to EPA and the State of Nevada for calendar year 2006 on or before July 2, 2007.
- 155. Respondent BCI failed to submit a complete and accurate Form R for nickel compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007.
- 156. Respondent BCI’s failure to submit a complete and accurate Form R for nickel compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 20: Failure to Submit Timely, Complete and Accurate Form R for Nitrate Compounds for 2006

- 157. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
- 158. During the calendar year 2006, Respondent BCI “manufactured” over 25,000 pounds of nitrate compounds, as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
- 159. Nitrate compound is a toxic chemical listed under 40 C.F.R. § 372.65.
- 160. The threshold for reporting nitrate compounds “manufactured” at the BCI Facility is 25,000

pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.

- 161. Respondent BCI was required to submit a complete and accurate Form R for nitrate compounds to EPA and the State of Nevada for calendar year 2006 on or before July 2, 2007.
- 162. Respondent BCI failed to submit a complete and accurate Form R for nitrate compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007.
- 163. Respondent BCI's failure to submit a complete and accurate Form R for nitrate compounds for calendar year 2006 to EPA and the State of Nevada on or before July 2, 2007 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 21: Failure to Submit Timely Form R for Antimony Compounds for 2007

- 164. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
- 165. During the calendar year 2007, Respondent BCI "manufactured" over 25,000 pounds of antimony compounds, as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
- 166. Antimony compound is a toxic chemical listed under 40 C.F.R. § 372.65.
- 167. The threshold for reporting antimony compounds "manufactured" at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
- 168. Respondent BCI was required to submit a complete and accurate Form R for antimony compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
- 169. Respondent BCI failed to submit a Form R for antimony compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
- 170. Respondent BCI's failure to submit a Form R for antimony compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of

EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 22: Failure to Submit Timely, Complete and Accurate Form R for Arsenic Compounds for 2007

171. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
172. During the calendar year 2007, Respondent BCI “manufactured” over 25,000 pounds of arsenic compounds as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
173. Arsenic compound is a toxic chemical listed under 40 C.F.R. § 372.65.
174. The threshold for reporting arsenic compounds “manufactured” at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
175. Respondent BCI was required to submit a complete and accurate Form R for arsenic compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
176. Respondent BCI failed to submit a complete and accurate Form R for arsenic compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
177. Respondent BCI’s failure to submit a complete and accurate Form R for arsenic compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 23: Failure to Submit Timely Form R for Barium Compounds for 2007

178. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
179. During the calendar year 2007, Respondent BCI “manufactured” over 25,000 pounds of barium compounds, as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
180. Barium compound is a toxic chemical listed under 40 C.F.R. § 372.65.
181. The threshold for reporting barium compounds “manufactured” at the BCI Facility is 25,000

pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.

182. Respondent BCI was required to submit a complete and accurate Form R for barium compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
183. Respondent BCI failed to submit a Form R for barium compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
184. Respondent BCI's failure to submit a Form R for barium compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 24: Failure to Submit Timely Form R for Cadmium Compounds for 2007

185. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
186. During the calendar year 2007, Respondent BCI "manufactured" over 25,000 pounds of cadmium compounds (N078), as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
187. Cadmium compound (N078) is a toxic chemical listed under 40 C.F.R. § 372.65.
188. The threshold for reporting cadmium compounds "manufactured" at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
189. Respondent BCI was required to submit a complete and accurate Form R for cadmium compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
190. Respondent BCI failed to submit a Form R for cadmium compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
191. Respondent BCI's failure to submit a Form R for cadmium compounds for calendar year

2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 25: Failure to Submit Timely Form R for Chromium Compounds for 2007

192. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
193. During the calendar year 2007, Respondent BCI “manufactured” over 25,000 pounds of chromium compounds (N090), as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
194. Chromium compound (N090) is a toxic chemical listed under 40 C.F.R. § 372.65.
195. The threshold for reporting chromium compounds “manufactured” at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
196. Respondent BCI was required to submit a complete and accurate Form R for chromium compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
197. Respondent BCI failed to submit a Form R for chromium compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
198. Respondent BCI’s failure to submit a Form R for chromium compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 26: Failure to Submit Timely Form R for Cobalt Compounds for 2007

199. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
200. During the calendar year 2007, Respondent BCI “manufactured” over 25,000 pounds of cobalt compounds, as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
201. Cobalt compound is a toxic chemical listed under 40 C.F.R. § 372.65.

202. The threshold for reporting cobalt compounds “manufactured” at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
203. Respondent BCI was required to submit a complete and accurate Form R for cobalt compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
204. Respondent BCI failed to submit a Form R for cobalt compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
205. Respondent BCI’s failure to submit a Form R for cobalt compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 27: Failure to Submit Timely, Complete and Accurate Form R for Copper Compounds for 2007

206. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
207. During the calendar year 2007, Respondent BCI “manufactured” over 25,000 pounds of copper compounds, as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
208. Copper compound is a toxic chemical listed under 40 C.F.R. § 372.65.
209. The threshold for reporting copper compounds “manufactured” at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
210. Respondent BCI was required to submit a complete and accurate Form R for copper compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
211. Respondent BCI failed to submit a complete and accurate Form R for copper compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.

212. Respondent BCI's failure to submit a complete and accurate Form R for copper compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 28: Failure to Submit Timely, Complete and Accurate Form R for Cyanide Compounds for 2007

213. Paragraphs 1 through 23 are realleged and incorporated by reference herein.

214. During the calendar year 2007, Respondent BCI "otherwise used" over 10,000 pounds of cyanide compounds, as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.

215. Cyanide compound is a toxic chemical listed under 40 C.F.R. § 376.65.

216. The threshold for reporting cyanide compounds "otherwise used" at the BCI Facility is 10,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.

217. Respondent BCI was required to submit a complete and accurate Form R for cyanide compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.

218. Respondent BCI failed to submit a complete and accurate Form R for cyanide compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.

219. Respondent BCI's failure to submit a complete and accurate Form R for cyanide compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 29: Failure to Submit Timely, Complete and Accurate Form R for Lead Compounds for 2007

220. Paragraphs 1 through 23 are realleged and incorporated by reference herein.

221. During the calendar year 2007, Respondent BCI "processed" over 100 pounds of lead



compounds, as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.

- 222. Lead compound is a toxic chemical listed under 40 C.F.R. § 372.65.
- 223. The threshold for reporting lead compounds “processed” at the BCI Facility is 100 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.
- 224. Respondent BCI was required to submit a complete and accurate Form R for lead compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
- 225. Respondent BCI failed to submit a complete and accurate Form R for lead compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
- 226. Respondent BCI’s failure to submit a complete and accurate Form R for lead compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 30: Failure to Submit Timely, Complete and Accurate Form R for Mercury Compounds for 2007

- 227. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
- 228. During the calendar year 2007, Respondent BCI “manufactured” over 10 pounds of mercury compounds (N458), as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
- 229. Mercury compound (N458) is a toxic chemical listed under 40 C.F.R. § 372.65.
- 230. The threshold for reporting mercury compounds “manufactured” at the BCI Facility is 10 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.
- 231. Respondent BCI was required to submit a complete and accurate Form R for mercury compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.

232. Respondent BCI failed to submit a complete and accurate Form R for mercury compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
233. Respondent BCI's failure to submit a complete and accurate Form R for mercury compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 31: Failure to Submit Timely, Complete and Accurate Form R for Nickel Compounds for 2007

234. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
235. During the calendar year 2007, Respondent BCI "manufactured" over 25,000 pounds of nickel compounds, as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
236. Nickel compound is a toxic chemical listed under 40 C.F.R. § 372.65.
237. The threshold for reporting nickel compounds "manufactured" at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
238. Respondent BCI was required to submit a complete and accurate Form R for nickel compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
239. Respondent BCI failed to submit a complete and accurate Form R for nickel compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
240. Respondent BCI's failure to submit a complete and accurate Form R for nickel compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 32: Failure to Submit Timely Form R for Nitrate Compounds for 2007

241. Paragraphs 1 through 23 are realleged and incorporated by reference herein.

- 242. During the calendar year 2007, Respondent BCI “manufactured” over 25,000 pounds of nitrate compounds, as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
- 243. Nitrate compound is a toxic chemical listed under 40 C.F.R. § 372.65.
- 244. The threshold for reporting nitrate compounds “manufactured” at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
- 245. Respondent BCI was required to submit a complete and accurate Form R for nitrate compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
- 246. Respondent BCI failed to submit a Form R for nitrate compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
- 247. Respondent BCI’s failure to submit a Form R for nitrate compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 33: Failure to Submit Timely Form R for Vanadium Compounds for 2007

- 248. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
- 249. During the calendar year 2007, Respondent BCI “manufactured” over 25,000 pounds of vanadium compounds (N770), as that term is defined in 40 C.F.R. § 372.3, at the BCI Facility.
- 250. Vanadium compound (N770) is a toxic chemical listed under 40 C.F.R. § 372.65.
- 251. The threshold for reporting vanadium compounds “manufactured” at the BCI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
- 252. Respondent BCI was required to submit a complete and accurate Form R for vanadium

compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.

- 253. Respondent BCI failed to submit a Form R for vanadium compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
- 254. Respondent BCI's failure to submit a Form R for vanadium compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

## **II. BGI Violations**

COUNT 34: Failure to Submit Timely, Complete and Accurate Form R for Cyanide Compounds for 2007

- 255. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
- 256. During the calendar year 2007, Respondent BGI "otherwise used" over 10,000 pounds of cyanide compounds, as that term is defined in 40 C.F.R. § 372.3, at the BGI Facility.
- 257. Cyanide compound is a toxic chemical listed under 40 C.F.R. § 372.65.
- 258. The threshold for reporting cyanide compounds "otherwise used" at the BGI Facility is 10,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
- 259. Respondent BGI was required to submit a complete and accurate Form R for cyanide compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
- 260. Respondent BGI failed to submit a complete and accurate Form R for cyanide compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
- 261. Respondent BGI's failure to submit a complete and accurate Form R for cyanide compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 35: Failure to Submit Timely, Complete and Accurate Form R for Hydrogen Cyanide for 2007

- 262. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
- 263. During the calendar year 2007, Respondent BGI “manufactured” over 25,000 pounds of hydrogen cyanide (74-90-8), as that term is defined in 40 C.F.R. § 372.3, at the BGI Facility.
- 264. Hydrogen cyanide (74-90-8) is a toxic chemical listed under 40 C.F.R. § 372.65.
- 265. The threshold for reporting hydrogen cyanide “manufactured” at the BGI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
- 266. Respondent BGI was required to submit a complete and accurate Form R for hydrogen cyanide to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
- 267. Respondent BGI failed to submit a complete and accurate Form R for hydrogen cyanide for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
- 268. Respondent BGI’s failure to submit a complete and accurate Form R for hydrogen cyanide for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 36: Failure to Submit Timely, Complete and Accurate Form R for Mercury Compounds for 2007

- 269. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
- 270. During the calendar year 2007, Respondent BGI “manufactured” over 10 pounds of mercury compounds, as that term is defined in 40 C.F.R. § 372.3, at the BGI Facility.
- 271. Mercury compound is a toxic chemical listed under 40 C.F.R. § 372.65.

272. The threshold for reporting mercury compounds “manufactured” at the BGI Facility is 10 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.
273. Respondent BGI was required to submit a complete and accurate Form R for mercury compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
274. Respondent BGI failed to submit a complete and accurate Form R for mercury compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
275. Respondent BGI’s failure to submit a complete and accurate Form R for mercury compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 37: Failure to Submit Timely, Complete and Accurate Form R for Nitrate Compounds for 2007

276. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
277. During the calendar year 2007, Respondent BGI “manufactured” over 25,000 pounds of nitrate compounds, as that term is defined in 40 C.F.R. § 372.3, at the BGI Facility.
278. Nitrate compound is a toxic chemical listed under 40 C.F.R. § 372.65.
279. The threshold for reporting nitrate compounds “manufactured” at the BGI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
280. Respondent BGI was required to submit a complete and accurate Form R for nitrate compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
281. Respondent BGI failed to submit a complete and accurate Form R for nitrate compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.

282. Respondent BGI's failure to submit a complete and accurate Form R for nitrate compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 38: Failure to Submit Timely, Complete and Accurate Form R for Copper Compounds for 2008

283. Paragraphs 1 through 23 are realleged and incorporated by reference herein.

284. During the calendar year 2008, Respondent BGI "manufactured" over 25,000 pounds of copper compounds, as that term is defined in 40 C.F.R. § 372.3, at the BGI Facility.

285. Copper compound is a toxic chemical listed under 40 C.F.R. § 372.65.

286. The threshold for reporting copper compounds "manufactured" at the BGI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.

287. Respondent BGI was required to submit a complete and accurate Form R for copper compounds to EPA and the State of Nevada for calendar year 2008 on or before July 1, 2009.

288. Respondent BGI failed to submit a complete and accurate Form R for copper compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009.

289. Respondent BGI's failure to submit a complete and accurate Form R for copper compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 39: Failure to Submit Timely, Complete and Accurate Form R for Cyanide Compounds for 2008

290. Paragraphs 1 through 23 are realleged and incorporated by reference herein.

291. During the calendar year 2008, Respondent BGI "otherwise used" over 10,000 pounds of

cyanide compounds, as that term is defined in 40 C.F.R. § 372.3, at the BGI Facility.

- 292. Cyanide compound is a toxic chemical listed under 40 C.F.R. § 372.65.
- 293. The threshold for reporting cyanide compounds “otherwise used” at the BGI Facility is 10,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
- 294. Respondent BGI was required to submit a complete and accurate Form R for cyanide compounds to EPA and the State of Nevada for calendar year 2008 on or before July 1, 2009.
- 295. Respondent BGI failed to submit a complete and accurate Form R for cyanide compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009.
- 296. Respondent BGI’s failure to submit a complete and accurate Form R for cyanide compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 40: Failure to Submit Timely, Complete and Accurate Form R for Lead Compounds for 2008

- 297. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
- 298. During the calendar year 2008, Respondent BGI “otherwise used” over 100 pounds of lead compounds, as that term is defined in 40 C.F.R. § 372.3, at the BGI Facility.
- 299. Lead compound is a toxic chemical listed under 40 C.F.R. § 372.65.
- 300. The threshold for reporting lead compounds “otherwise used” at the BGI Facility is 100 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.
- 301. Respondent BGI was required to submit a complete and accurate Form R for lead compounds to EPA and the State of Nevada for calendar year 2008 on or before July 1, 2009.



302. Respondent BGI failed to submit a complete and accurate Form R for lead compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009.
303. Respondent BGI's failure to submit a complete and accurate Form R for lead compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 41: Failure to Submit Timely, Complete and Accurate Form R for Mercury Compounds for 2008

304. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
305. During the calendar year 2008, Respondent BGI "manufactured" over 10 pounds of mercury compounds, as that term is defined in 40 C.F.R. § 372.3, at the BGI Facility.
306. Mercury compound is a toxic chemical listed under 40 C.F.R. § 372.65.
307. The threshold for reporting mercury compounds "manufactured" at the BGI Facility is 10 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.
308. Respondent BGI was required to submit a complete and accurate Form R for mercury compounds to EPA and the State of Nevada for calendar year 2008 on or before July 1, 2009.
309. Respondent BGI failed to submit a complete and accurate Form R for mercury compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009.
310. Respondent BGI's failure to submit a complete and accurate Form R for mercury compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 42: Failure to Submit Timely Form R for Methanol for 2008

311. Paragraphs 1 through 23 are realleged and incorporated by reference herein.

312. During the calendar year 2008, Respondent BGI “otherwise used” over 10,000 pounds of methanol (67-56-1), as that term is defined in 40 C.F.R. § 372.3, at the BGI Facility.
313. Methanol (67-56-1) is a toxic chemical listed under 40 C.F.R. § 372.65.
314. The threshold for reporting methanol “otherwise used” at the BGI Facility is 10,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
315. Respondent BGI was required to submit a complete and accurate Form R for methanol to EPA and the State of Nevada for calendar year 2008 on or before July 1, 2009.
316. Respondent BGI failed to submit a Form R for methanol for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009.
317. Respondent BGI’s failure to submit a Form R for methanol for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 43: Failure to Submit Timely, Complete and Accurate Form R for Nitrate Compounds for 2008

318. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
319. During the calendar year 2008, Respondent BGI “manufactured” over 25,000 pounds of nitrate compounds, as that term is defined in 40 C.F.R. § 372.3, at the BGI Facility.
320. Nitrate compound is a toxic chemical listed under 40 C.F.R. § 372.65.
321. The threshold for reporting nitrate compounds “manufactured” at the BGI Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
322. Respondent BGI was required to submit a complete and accurate Form R for nitrate

compounds to EPA and the State of Nevada for calendar year 2008 on or before July 1, 2009.

323. Respondent BGI failed to submit a complete and accurate Form R for nitrate compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009.

324. Respondent BGI's failure to submit a complete and accurate Form R for nitrate compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

### **III. Homestake Violations**

#### **COUNT 44: Failure to Submit Timely Form R for Antimony Compounds for 2007**

325. Paragraphs 1 through 23 are realleged and incorporated by reference herein.

326. During the calendar year 2007, Respondent Homestake "processed" over 25,000 pounds of antimony compounds, as that term is defined in 40 C.F.R. § 372.3, at the Homestake Facility.

327. Antimony compound is a toxic chemical listed under 40 C.F.R. § 372.65.

328. The threshold for reporting antimony compounds "processed" at the Homestake Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.

329. Respondent Homestake was required to submit a complete and accurate Form R for antimony compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.

330. Respondent Homestake failed to submit a Form R for antimony compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.

331. Respondent Homestake's failure to submit a Form R for antimony compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of

EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 45: Failure to Submit Timely Form R for Arsenic Compounds for 2007

332. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
333. During the calendar year 2007, Respondent Homestake “processed” over 25,000 pounds of arsenic compounds, as that term is defined in 40 C.F.R. § 372.3, at the Homestake Facility.
334. Arsenic compound is a toxic chemical listed under 40 C.F.R. § 372.65.
335. The threshold for reporting arsenic compounds “processed” at the Homestake Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
336. Respondent Homestake was required to submit a complete and accurate Form R for arsenic compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
337. Respondent Homestake failed to submit a Form R for arsenic compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
338. Respondent Homestake’s failure to submit a Form R for arsenic compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 46: Failure to Submit Timely Form R for Barium Compounds for 2007

339. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
340. During the calendar year 2007, Respondent Homestake “processed” over 25,000 pounds of barium compounds, as that term is defined in 40 C.F.R. § 372.3, at the Homestake Facility.
341. Barium compound is a toxic chemical listed under 40 C.F.R. § 372.65.
342. The threshold for reporting barium compounds “processed” at the Homestake Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and

40 C.F.R. § 372.25.

- 343. Respondent Homestake was required to submit a complete and accurate Form R for barium compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
- 344. Respondent Homestake failed to submit a Form R for barium compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
- 345. Respondent Homestake's failure to submit a Form R for barium compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 47: Failure to Submit Timely Form R for Chromium Compounds for 2007

- 346. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
- 347. During the calendar year 2007, Respondent Homestake "processed" over 25,000 pounds of chromium compounds, as that term is defined in 40 C.F.R. § 372.3, at the Homestake Facility.
- 348. Chromium compound is a toxic chemical listed under 40 C.F.R. § 372.65.
- 349. The threshold for reporting chromium compounds "processed" at the Homestake Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
- 350. Respondent Homestake was required to submit a complete and accurate Form R for chromium compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
- 351. Respondent Homestake failed to submit a Form R for chromium compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
- 352. Respondent Homestake's failure to submit a Form R for chromium compounds for calendar

year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 48: Failure to Submit Timely Form R for Copper Compounds for 2007

- 353. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
- 354. During the calendar year 2007, Respondent Homestake “processed” over 25,000 pounds of copper compounds, as that term is defined in 40 C.F.R. § 372.3, at the Homestake Facility.
- 355. Copper compound is a toxic chemical listed under 40 C.F.R. § 372.65.
- 356. The threshold for reporting copper compounds “processed” at the Homestake Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
- 357. Respondent Homestake was required to submit a complete and accurate Form R for copper compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
- 358. Respondent Homestake failed to submit a Form R for copper compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
- 359. Respondent Homestake’s failure to submit a Form R for copper compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 49: Failure to Submit Timely, Complete and Accurate Form R for Cyanide Compounds for 2007

- 360. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
- 361. During the calendar year 2007, Respondent Homestake “otherwise used” over 10,000 pounds of cyanide compounds, as that term is defined in 40 C.F.R. § 372.3, at the Homestake Facility.

362. Cyanide compound is a toxic chemical listed under 40 C.F.R. § 372.65.
363. The threshold for reporting cyanide compounds “otherwise used” at the Homestake Facility is 10,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.
364. Respondent Homestake was required to submit a complete and accurate Form R for cyanide compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
365. Respondent Homestake failed to submit a complete and accurate Form R for cyanide compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
366. Respondent Homestake’s failure to submit a complete and accurate Form R for cyanide compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 50: Failure to Submit Timely, Complete and Accurate Form R for Mercury Compounds for 2007

367. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
368. During the calendar year 2007, Respondent Homestake “processed” over 10 pounds of mercury compounds, as that term is defined in 40 C.F.R. § 372.3, at the Homestake Facility.
369. Mercury compound is a toxic chemical listed under 40 C.F.R. § 372.65.
370. The threshold for reporting mercury compounds “processed” at the Homestake Facility is 10 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.
371. Respondent Homestake was required to submit a complete and accurate Form R for mercury compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
372. Respondent Homestake failed to submit a complete and accurate Form R for mercury

compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.

373. Respondent Homestake's failure to submit a complete and accurate Form R for mercury compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 51: Failure to Submit Timely Form R for Zinc Compounds for 2007

374. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
375. During the calendar year 2007, Respondent Homestake "processed" over 25,000 pounds of zinc compounds, as that term is defined in 40 C.F.R. § 372.3, at the Homestake Facility.
376. Zinc compound is a toxic chemical listed under 40 C.F.R. § 372.65.
377. The threshold for reporting zinc compounds "processed" at the Homestake Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
378. Respondent Homestake was required to submit a complete and accurate Form R for zinc compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
379. Respondent Homestake failed to submit a Form R for zinc compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
380. Respondent Homestake's failure to submit a Form R for zinc compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 52: Failure to Submit Timely Form R for Arsenic Compounds for 2008

381. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
382. During the calendar year 2008, Respondent Homestake "processed" over 25,000 pounds of arsenic compounds, as that term is defined in 40 C.F.R. § 372.3, at the Homestake Facility.



383. Arsenic compound is a toxic chemical listed under 40 C.F.R. § 372.65.
384. The threshold for reporting arsenic compounds “processed” at the Homestake Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
385. Respondent Homestake was required to submit a complete and accurate Form R for arsenic compounds to EPA and the State of Nevada for calendar year 2008 on or before July 1, 2009.
386. Respondent Homestake failed to submit a Form R for arsenic compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009.
387. Respondent Homestake’s failure to submit a Form R for arsenic compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 53: Failure to Submit Timely Form R for Barium Compounds for 2008

388. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
389. During the calendar year 2008, Respondent Homestake “processed” over 25,000 pounds of barium compounds, as that term is defined in 40 C.F.R. § 372.3, at the Homestake Facility.
390. Barium compound is a toxic chemical listed under 40 C.F.R. § 372.65.
391. The threshold for reporting barium compounds “processed” at the Homestake Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
392. Respondent Homestake was required to submit a complete and accurate Form R for barium compounds to EPA and the State of Nevada for calendar year 2008 on or before July 1, 2009.
393. Respondent Homestake failed to submit a Form R for barium compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009.

394. Respondent Homestake's failure to submit a Form R for barium compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 54: Failure to Submit Timely, Complete and Accurate Form R for Cyanide Compounds for 2008

395. Paragraphs 1 through 23 are realleged and incorporated by reference herein.

396. During the calendar year 2008, Respondent Homestake "otherwise used" over 10,000 pounds of cyanide compounds, as that term is defined in 40 C.F.R. § 372.3, at the Homestake Facility.

397. Cyanide compound is a toxic chemical listed under 40 C.F.R. § 372.65.

398. The threshold for reporting cyanide compounds "otherwise used" at the Homestake Facility is 10,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.

399. Respondent Homestake was required to submit a complete and accurate Form R for cyanide compounds to EPA and the State of Nevada for calendar year 2008 on or before July 1, 2009.

400. Respondent Homestake failed to submit a complete and accurate Form R for cyanide compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009.

401. Respondent Homestake's failure to submit a complete and accurate Form R for cyanide compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 55: Failure to Submit Timely Form R for Lead Compounds for 2008

402. Paragraphs 1 through 23 are realleged and incorporated by reference herein.

403. During the calendar year 2008, Respondent Homestake "processed" over 100 pounds of lead

compounds, as that term is defined in 40 C.F.R. § 372.3, at the Homestake Facility.

- 404. Lead compound is a toxic chemical listed under 40 C.F.R. § 372.65.
- 405. The threshold for reporting lead compounds “processed” at the Homestake Facility is 100 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.
- 406. Respondent Homestake was required to submit a complete and accurate Form R for lead compounds to EPA and the State of Nevada for calendar year 2008 on or before July 1, 2009.
- 407. Respondent Homestake failed to submit a Form R for lead compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009.
- 408. Respondent Homestake’s failure to submit a Form R for lead compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 56: Failure to Submit Timely, Complete and Accurate Form R for Mercury Compounds for 2008

- 409. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
- 410. During the calendar year 2008, Respondent Homestake “processed” over 10 pounds of mercury compounds, as that term is defined in 40 C.F.R. § 372.3, at the Homestake Facility.
- 411. Mercury compound is a toxic chemical listed under 40 C.F.R. § 372.65.
- 412. The threshold for reporting mercury compounds “processed” at the Homestake Facility is 10 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.
- 413. Respondent Homestake was required to submit a complete and accurate Form R for mercury compounds to EPA and the State of Nevada for calendar year 2008 on or before July 1, 2009.

414. Respondent Homestake failed to submit a complete and accurate Form R for mercury compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009.
415. Respondent Homestake's failure to submit a complete and accurate Form R for mercury compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 57: Failure to Submit Timely, Complete and Accurate Form R for Nitrate Compounds for 2008

416. Paragraphs 1 through 23 are realleged and incorporated by reference herein.
417. During the calendar year 2008, Respondent Homestake "manufactured" over 25,000 pounds of nitrate compounds, as that term is defined in 40 C.F.R. § 372.3, at the Homestake Facility.
418. Nitrate compound is a toxic chemical listed under 40 C.F.R. § 372.65.
419. The threshold for reporting nitrate compounds "manufactured" at the Homestake Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
420. Respondent Homestake was required to submit a complete and accurate Form R for nitrate compounds to EPA and the State of Nevada for calendar year 2008 on or before July 1, 2009.
421. Respondent Homestake failed to submit a complete and accurate Form R for nitrate compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009.
422. Respondent Homestake's failure to submit a complete and accurate Form R for nitrate compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT 58: Failure to Submit Timely Form R for Zinc Compounds for 2008

423. Paragraphs 1 through 23 are realleged and incorporated by reference herein.

424. During the calendar year 2008, Respondent Homestake “processed” over 25,000 pounds of zinc compounds, as that term is defined in 40 C.F.R. § 372.3, at the Homestake Facility.
425. Zinc compound is a toxic chemical listed under 40 C.F.R. § 372.65.
426. The threshold for reporting zinc compounds “processed” at the Homestake Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
427. Respondent Homestake was required to submit a complete and accurate Form R for zinc compounds to EPA and the State of Nevada for calendar year 2008 on or before July 1, 2009.
428. Respondent Homestake failed to submit a Form R for zinc compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009.
429. Respondent Homestake’s failure to submit a Form R for zinc compounds for calendar year 2008 to EPA and the State of Nevada on or before July 1, 2009 violates Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

#### PROPOSED CIVIL PENALTY

Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), and the Civil Monetary Penalty Inflation Adjustment Rule (61 Fed. Reg. 69359 (December 31, 1996); 62 Fed. Reg. 13514 (March 20, 1997); and 69 Fed. Reg. 7121 (February 13, 2004)), authorize EPA to assess a civil penalty of up to \$32,500 per day for each violation of EPCRA Section 313 that occurs before January 12, 2009, and a civil penalty of up to \$37,500 per day for each violation of EPCRA Section 313 that occurs on or after January 12, 2009. Based upon the nature, circumstances, extent and gravity of the violations alleged, and with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require, as

set forth in the Enforcement Response Policy for Section 313 of EPCRA (“ERP”), dated August 10, 1992, and the Interim Data Quality Amendment to the EPCRA Section 313 Enforcement Response Policy, dated April 12, 2001, Complainant requests that the Administrator assess against Respondents a civil administrative penalty of up to \$32,500 or \$37,500 per day for each violation of the Act, as set forth above.

#### OPPORTUNITY TO REQUEST A HEARING

The Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22, govern these proceedings.

Under these rules, you have the right to request a hearing. Any request for a hearing must be in writing and must be filed with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California within twenty (20) days of receipt of this Second Amended Complaint. In the event that you intend to request a hearing to contest any material facts set forth in the Second Amended Complaint, to dispute the amount of the penalty proposed in the Second Amended Complaint, or to assert a claim for judgment as a matter of law, you must file a written Answer to this Second Amended Complaint with the Regional Hearing Clerk at the above address within twenty (20) days of receipt of this Second Amended Complaint. A copy of your Answer should also be sent to:

David H. Kim  
Assistant Regional Counsel (ORC-3)  
U.S. Environmental Protection Agency, Region 9  
75 Hawthorne Street  
San Francisco, CA 94105

Your Answer should clearly and directly admit, deny, or explain each factual allegation

contained in this Second Amended Complaint with regard to which you have any knowledge. The Answer should state: (1) the circumstances or arguments which are alleged to constitute the grounds of defense; (2) a concise statement of the facts which you intend to place at issue in the hearing; and (3) whether a hearing is requested. Hearings held in the assessment of the civil penalties will be conducted in accordance with the provisions of the Administrative Procedures Act, 5 U.S.C. §§ 551 et seq., and the Consolidated Rules of Practice. See 40 C.F.R. Part 22.

If you fail to file an Answer to this Second Amended Complaint with the Regional Hearing Clerk within twenty (20) days of receipt, such failure shall constitute an admission of all facts alleged in the Second Amended Complaint and a waiver of your right to a hearing. The proposed penalty shall become due and payable by you without further proceedings sixty (60) days after a final order issued upon default.

#### SETTLEMENT CONFERENCE

EPA encourages all parties against whom civil penalties are proposed to pursue the possibilities of settlement through informal conferences. Therefore, whether or not you request a hearing, you may confer informally with the Agency concerning the alleged violation or the amount of the proposed penalty. You may wish to appear at the conference yourself or be represented by counsel. If a settlement is reached, it shall be finalized by the issuance of a written Consent Agreement and Final Order by the Regional Judicial Officer, EPA, Region IX. The issuance of such Consent Agreement and Final Order shall constitute a waiver of your right to request a hearing of any matter stipulated to therein.

To explore the possibility of settlement in this matter, address your correspondence to:

David H. Kim  
Assistant Regional Counsel (ORC-3)  
U.S. Environmental Protection Agency, Region IX  
75 Hawthorne Street

San Francisco, CA 94105

His telephone number is (415) 972-3882.

Instead of requesting an informal settlement conference or filing an Answer requesting a hearing, you may choose to pay the proposed penalty. In order to do this, please contact Mr. Kim to arrange for the preparation of a Consent Agreement and Final Order.

After this Second Amended Complaint is issued, the Consolidated Rules of Practice prohibit ex parte (unilateral) discussion of the merits of any action with the EPA Regional Administrator, Chief Judicial Officer, Administrative Law Judge, or any person likely to advise these officials in the decision of this case.

Dated at San Francisco, California on this <sup>28</sup> day of January, 2013.



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Enrique Manzanilla  
Director, Communities and Ecosystems Division  
USEPA, Region 9



CERTIFICATE OF SERVICE

I certify that the original and a copy of the foregoing Second Amended Complaint and Notice of Opportunity for Hearing was delivered by pouch mail to:

Sybil Anderson  
Headquarters Hearing Clerk  
Office of Administrative Law Judges (Mail Code 1900L)  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460-2001

and that a true and correct copy of the Second Amended Complaint was placed in pouch mail or the United States Mail, addressed to the following:

The Honorable M. Lisa Buschmann  
Administrative Law Judge  
Office of Administrative Law Judges  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW/Mail Code 1900L  
Washington, D.C. 20460

Patrick Malone, Esq.  
Barrick Gold Corporation  
136 East South Temple, Suite 1800  
Salt Lake City, UT 84111

Steven Barringer, Esq.  
Holland & Hart, LLP  
975 F Street, N.W., Suite 900  
Washington, D.C. 20004

Dated: 1/28/2013

By: 

Office of Regional Counsel  
USEPA, Region 9